



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION**

August 25, 2010

Robin Davis  
Town of Milton  
115 Federal Street  
Milton, DE 19968

RE: 2010-07-04; Town of Milton Comprehensive Plan

Dear Ms. Davis:

Thank you for meeting with State agency planners on August 4, 2010 to discuss the proposed Town of Milton draft comprehensive plan update.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

***Certification Comments:*** These comments must be addressed in order for our office to consider the plan amendment consistent with the terms of your certification and the requirements of Title 22, § 702 of the Del. Code.

- No certification issues were found as part of this review process.

***Recommendations:*** Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: Bryan Hall 739-3090**

The Office of State Planning Coordination appreciates the Town's hard work in the development of this Comprehensive Plan Update. This Office has not additional recommendations at this time; however, would ask that the Town consider the following recommendations provided by other State agencies as part of their efforts to continue to update and implement the comprehensive

plan or as the Town develops and implements a Master Plan for those areas of concerns whether these are lands for future growth or annexation or existing lands within the Town proper.

**State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685**

The Town of Milton has demonstrated the success of using historic preservation as one strategy in a multi-pronged approach to maintaining the economic viability and traditional charm of their town, through heritage and environmental tourism and recreation opportunities, appropriate rehabilitation and reuse of historic buildings, and protection of the historic district in developing modern commercial and business areas.

This plan places historic preservation values central to their vision for the town's future. The Town is a Certified Local Government in the National Park Service's historic preservation partnership program. The plan shows consideration for preservation values throughout, in such things as encouragement for sensitive rehabilitation of historic homes, a commitment to keeping the Town's offices in the Town Center, adaptive reuse of commercial buildings, and a proposal to interpret the archaeology of the shipbuilding area.

The State Historic Preservation Office does encourage you to apply for the Main Street program again, and to develop the historic district guidelines and zoning changes, particularly to setbacks, mentioned in the plan. Milton's expansion of the historic district is important to us as well, and we also want to move it through the National Register process in the coming months.

The Town may want to consider some kind of process, using its Historic District Commission, to provide some consideration or protection strategies for historic buildings and sites that may be in annexation areas as part of the annexation process. SHPO will be very happy to work with the Town in these important historic preservation matters. If you have any questions or concerns, please contact Alice Guerrant at 302-736-7412.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- Table 3, on page 10, lists residential building projects in the Town limits. DelDOT recommends that an exhibit be added to show their locations.
- There is an error on page 11, in the paragraph on Tax Base. Specifically, the Town-wide tax reassessment resulted in an increase of 162 percent in the estimated total assessed valuation.
- While Exhibit E, Existing Land Use, is adequate, consider having separate, more detailed exhibits for the sub-areas described in the Existing Land Use section, pages 19 through 26.
- On page 27, the description of the Residential Two District could be clarified. Specifically, one sentence reads “Minimum 40,000 square foot lots are required, with one dwelling unit allowed for each 10,000 square feet of lot area (4 units per acre) and a minimum lot size of 4,000 square feet.” We believe the intent is to say that Residential Two Districts are required

to have a minimum size of 40,000 square feet, with one dwelling unit allowed for each 10,000 square feet of lot area (4 units per acre) and a minimum lot size of 4,000 square feet.

- Exhibit D2 could be significantly improved by adding the names of the farms being preserved, so that readers of the Agricultural Lands Preservation Analysis on pages 30 and 31 can better relate the exhibit to the text.
- On page 32, traffic on both Delaware Route 16 and US Route 9 is characterized as growing at 10% per year. What is the basis for these statements? On local roads, development can sometimes cause volumes to increase by 10% or more annually for a few years, but even then it is a short-term occurrence. Generally, and especially for collector and arterial roads such as Route 16 and Route 9, respectively, annual increases in traffic average between 1% and 3%. With the recent recession, volumes in many locations have actually decreased. DelDOT recommends that the statements about traffic growth on these roads be removed.
- At the top of page 33, Atlantic Street/Cave Neck Road is incorrectly described as Milton's transit route and the transit information found there is outdated. The Blue Diamond Lines transit service has been replaced by DART Route 303, which runs through Milton on the way between Ellendale and Harbeson by way of Delaware Routes 16 and 5. The scheduled Milton stop is at Luther Towers, with six southbound stops and five northbound stops each weekday.
- The discussion of public schools on pages 37 and 38 seems incomplete in that when the Mariner Middle School opened in 2003 and the Milton Middle School became the Milton Elementary school, the number of elementary school children did not divide between the Milton and H.O. Brittingham elementary schools. There are several possible explanations for this fact, all having to do with feeder patterns in the Cape Henlopen School District, but the Plan does not say what occurred. This need not be a lengthy discussion but the Plan should explain where the town's children are educated, regardless of whether those schools are in the town, and the discussion should include enough information about the surrounding area to explain the demands on those schools.
- The section on Utilities, on pages 39 through 44, suggests that the Town has a pending water shortage. It is apparent that this issue is addressed more fully in the 2009 Master Water Plan and it may be that the water shortage is addressed there. The Comprehensive Plan can incorporate the Master Water Plan by reference, but it should include a summary of its findings. If the Master Water Plan leaves problems unresolved, the Comprehensive Plan should be clear about what those problems are and how solutions will be sought.
- On page 48, the Plan states residential development "will contribute to a revitalization of the town's tax base and economy in general." DelDOT acknowledges that residential development can help the local economy in that retail and service uses require a certain customer base to be viable. Regarding the tax base, however, residential development rarely pays its own way. If the Town proposes to depend on residential development for their tax

base, they should evaluate their tax structure carefully to make sure this strategy is viable in regards to both costs and benefits.

- On page 33, there is a statement that “DelDOT is applying a new access management policy,” and on page 50 there is a reference to “DelDOT’s access management program.” These statements are correct in that DelDOT has recently revised its Standards and Regulations for Subdivision Streets and State Highway Access and one of the functions of those standards and regulations is to manage access. However, DelDOT has not had a formal Access Management Policy (or Program) since the 1990’s. That policy was never actually adopted. It was withdrawn due to public opposition. To some extent, the Town may have confused that policy with DelDOT’s Corridor Preservation Program, which seeks to preserve the capacity of certain arterial highways using techniques that include access management. In the Milton area, the only highway in that program is Delaware Route 1.
- On page 52, there is a statement that “Any recreation areas intended solely for residents of a particular area must be maintained by a homeowners’ association.” DelDOT recommends that the Town reconsider this position. It is relatively easy for a homeowners’ association to control who uses facilities such as swimming pools, tennis courts, and fenced playgrounds and to secure those facilities if maintenance becomes a problem. It is relatively difficult, however, to restrict the use of parks and common areas to residents and guests. Therefore, it may be more practical to require that parks and unfenced common areas be dedicated to public use and for the Town to accept them for municipal maintenance

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

DNREC offers several comments and suggestions to improve conservation and protection of the Town’s resources. While the cumulative impact of various program suggestions and concerns may sound negative, the intent is to improve the plan elements related to environmental protection, wastewater, wildlife habitat and natural areas, and recreation. DNREC would welcome the opportunity to meet with the Town in a collaborative manner to discuss these recommendations and possible future ordinances.

In general, DNREC recommends master-planning the Town and its future annexation areas. There should be annexation standards, so that new developments look like they are a part of the Town, are connected, walkable, part of the street grid, and preserve the Town’s unique historic character.

**Recommendations for Comprehensive Plan Revisions**

**Wastewater recommendation - Develop an inventory of the Town’s wastewater infrastructure, to include treatment methods, capacities, and allocations.**

- As per The Municipal Development Strategy Checklist for Towns and Cities with a population of less than 2000 persons states:

**Inventory of Community Infrastructure** – An inventory of the community’s water, wastewater, transportation, open spaces, recreational facilities, schools, public buildings and other community infrastructure to account for need, improvements, capacities, and allocations should be considered.

**Environmental Protection Plan recommendation - There should be a natural resource protection element of the plan, developed with assistance from, and in consultation with, DNREC.**

- As per The Municipal Development Strategy Checklist for Towns and Cities with a population of less than 2000 persons states:

The Environmental Protection Plan must include *policies, statements, goals, and planning components* which serve to define the community’s strategy to preserve important natural resources, and prevent development activities which are detrimental to the natural environment. While this is not a required element, it is **highly** recommended for towns that are located on or near significant environmental features to develop such a plan and given Milton’s location to the Broadkill River and/or the Broadkill River Natural Area; this will help to address residents and future developers concerns with regards to environmental issues within and around the community.

**Natural Heritage and Endangered Species recommendations** - Although DNREC Division scientists have not surveyed all parcels within current Town boundaries and annexation areas, numerous Species of Greatest Conservation Need (SGCN<sup>1</sup>) occur within areas that were surveyed.

1. **On page 47, the Town should add the Natural Heritage and Endangered Species Program (NHESP) to the list of government agencies that the Town intends to coordinate with to ensure that federal and state listed species are not impacted by land-use decisions made by the Town. DNREC further recommends that the Town require developers, or applicants of development projects, to contact NHESP to determine if their project will impact SGCN. In some cases a site visit may be requested in order to provide the necessary information. The Town should then**

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<sup>1</sup> Species of greatest conservation need (SGCN) are indicative of the overall diversity and health of the State’s wildlife resources. Some may be rare or declining, others may be vital components of certain habitats, and still others may have a significant portion of their population in Delaware. SGCN are identified in the Delaware Wildlife Action Plan (DEWAP) which is a comprehensive strategy for conserving the full array of native wildlife and habitats-common and uncommon- as vital components of the state’s natural resources. This document can be viewed via our program website at <http://www.dnrec.state.de.us/nhp>. This document also contains a list of species of greatest conservation need, species-habitat associations, and maps of key wildlife habitat.

**consider requiring implementation of recommendations provided by the NHESP before approving site plans.**

- There are sensitive wetlands, forested areas, rare wildlife and plant species, and unique natural vegetative communities that occur within current Town boundaries and future annexation areas, however, the action items in the plan that would serve to protect these resources are somewhat vague. Sussex County, the State of Delaware and The Nature Conservancy are mentioned as ‘endeavoring to protect the natural environment of the Broadkill’ (page 19). It is not clear from this plan how the Town will take part in this endeavor.
- 2. Please contact Trevor Clark of the U.S. Fish and Wildlife Service (410-573-4527) to learn how to avoid impacting the habitat of the Delmarva Fox Squirrel.**
- Lands north of the Broadkill River lie within an area where the federally-listed Delmarva fox squirrel (*Sciurus niger cinereus*, DFS) is likely to occur. Delmarva fox squirrels are large-bodied tree squirrels that only inhabit mature forests on the Delmarva Peninsula. Threatened mainly by loss of its forested habitat, DFS have been protected as an endangered species since 1967. As required by the Endangered Species Act, the U.S. Fish and Wildlife Service review projects that may harm this species or their habitat. Based on past movement data, the Service only requires consultation on projects within 3 miles of known DFS populations.
- 3. The Atlantic White Cedar Wetlands should be delineated and protected by buffer widths of 300 feet to prevent sedimentation, as well as maintain the overall ecological integrity of the wetland.**
- According to our GIS database, there are Atlantic white cedar wetlands (*Chamaecyparis thyoides*) along Pemberton Branch, Brittingham Branch, Ingram Branch (north and south of Town), Round Pole Branch, and portions of the Broadkill River that are within Town Boundaries and areas to be annexed. Numerous rare plant and animal species have been documented within and associated with these wetlands, including the federally listed plant, *Hellonias bullata* (swamp pink).

On page 19, there is brief mention of Atlantic white cedar wetlands; however, there are no action items in the plan that will ensure protection. Atlantic white cedar wetlands typically grow under unique conditions which are often refuge for rare plant and animal species. This wetland type is sensitive to sedimentation and changes in water quality, especially pH. The hydrological regime is a major determinant of the resulting biota in this system and development without adequate buffers (at least 300 feet) could detrimentally impact these wetlands.

**4. The Tidal Shrub Wetlands should be delineated and protected by buffer widths of 300 feet to prevent sedimentation, as well as maintain the overall ecological integrity of the wetland.**

- *Tidal Shrub Wetlands.* According to the DNREC GIS database, there are fairly extensive areas of tidal shrub wetlands along the Broadkill River within Town and east of Town in areas being considered for annexation. Tidal shrub wetlands are transitional between emergent wetlands and forested wetlands and possess many important wetland values and functions, as well as providing important habitat for an array of wildlife species. Specific hydrologic, edaphic, and topographical conditions must be in place in order for tidal shrub wetlands to develop. If these conditions are disturbed or changed in any way from changes in land-use, the potential exists for community structure and plant species composition to shift in an unfavorable direction. Disturbance such as soil runoff from construction would be detrimental to this wetland type.

**5. To adequately protect the water quality of Wagamons Pond and to ensure adequate habitat for the aquatic community, there needs to be *at least* a 100-foot buffer without lot lines or infrastructure. Clearing the existing vegetation for ‘vistas of the water’ should not be permitted.**

- Clearing vegetation along the pond will not only impact water quality but can ultimately lead to bank erosion. Bank erosion may prompt the desire to harden the shoreline with bulkheads and/or rip-rap. This artificial hardening of the shoreline can impact fisheries in several ways: 1) removal of trees along the shoreline can reduce the effects of shading which is important for maintaining water temperature conducive to spawning, 2) alteration of shoreline habitat can affect the distribution of benthic and macro-invertebrates which serve as the forage base for many fish species, and 3) directly impact important nursery habitat by replacing natural habitat with man-made materials along the shoreline.

Although Wagamons Pond was annexed into the Town of Milton, it is owned by the State and managed for public use by DNREC-Division of Fish and Wildlife. The State owns and manages this pond, yet has little control over land-use that can profoundly impact it. Protection of water quality upstream and within this pond should be a priority.

The plan mentions the desire to construct ‘Wagamons West Shore’ development but doesn’t provide any specific actions that will ensure the function and integrity of the pond is protected. According to the latest tax parcel information and aerial photographs, there are lots being proposed along the shoreline.

In addition, the Town and residents of “Wagamons West Shores” should be aware that it is against DNREC policy to allow permitting of the installation of any private pier, dock, ramp or bulkhead in a state-owned pond.

**Wildlife Habitat Recommendations-** Cumulative habitat loss, especially of forested areas, throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State’s wildlife. Although, natural resource protection is mentioned several times in the plan, action items are too general or are inadequate for addressing the needed protection for these resources.

**1. Forested areas provide many recreational opportunities in addition to habitat for the State’s wildlife. The Town should recognize forested areas as open space and include action items that pertain to forest protection in their plan.**

- On page 47, “preserve woodlands and other unique natural and scenic features through creative site planning’. What exactly is creative site planning, and how will this result in the preservation of woodlands? Small, disconnected areas of trees behind lots, in corners or other left over spaces in a site plan does not constitute forest preservation from a wildlife habitat perspective. Larger, connected areas of forests need to be left intact. How will the Town ensure protection of at least some large forest blocks?

**2. Connections between habitats such as forested areas along water courses or forest patches between larger forest blocks are equally important for wildlife. Maintaining habitat connections should be considered in site plans as well.**

- Also on page 47, “encourage a clustering site plan approach for new residential development within the sensitive natural environment adjacent to the Broadkill and its tributaries”. A cluster design can result in more open space than a traditional maximum yield design, but if the plan fragments a forest block or has inadequate wetland buffers, the ‘sensitive’ natural environment will still be detrimentally impacted.

The Town considers the protection of sensitive environmental resources along the Broadkill River a priority and also recognizes the high potential for areas along the river to be developed in the future (page 23). Action items in the plan however are somewhat vague. What does ‘special attention’ in designing waterfront edges mean in terms of water quality protection? What does the Town consider an ‘adequate’ buffer width or setback distance and will they develop these requirements based on sound science?



3. **To ensure protection, the Town should require at least 100-foot (in the case of sensitive habitats, 300-foot) upland buffers.**
4. **Forest blocks or forested wetlands could be considered for preservation. Incentive-based programs for wildlife management are available to private landowners through our agency. Please contact Shelly Tovell for more information (302-735-3600).**
5. **The Town can refer to the Delaware Wildlife Action Plan (DEWAP) for planning purposes. DEWAP is a comprehensive strategy for conserving the full array of native wildlife and habitats-common and uncommon- as vital components of the state's natural resources. This document can be viewed via our program website at <http://www.dnrec.state.de.us/nhp>. This document also contains a list of species of greatest conservation need as well as species-habitat associations.**

#### **Natural Areas Recommendations**

1. **At a minimum the Broadkill River Natural Area should be identified on Map Exhibit D1 and/or D2, as should the State Resource Area.**
  - The Broadkill River Natural Area is contained on both the east and west side of the Town of Milton. Although State Resources Areas are mentioned in the body of the Plan, there is no reference or acknowledgement of the Broadkill River Natural Area. The plan indicates that one of its most important goals is the conservation of the natural environment along the Broadkill River.
2. **It is highly recommended that an ordinance on forest protection be drafted to protect such limited resources, with forest removal within Natural Areas receiving the highest level of protection.**
  - There are few forested areas remaining within the Town of Milton. In the section on *Natural Protection Techniques for New Development* within the Plan, no forest removal limitations have been suggested. Encouraging cluster development and creative site planning are commendable suggestions; however, a definitive plan to limit the removal of forest cover would better assist in showing how the Town plans to reach its goals to conserve the natural environment. Residential development is suggested in wholly forested sites in areas proposed for annexation. These areas are within the Broadkill River Natural Area, further necessitating the need for forest protection.

Additionally, detention/retention ponds are no longer the preferred method to manage stormwater runoff. Rather, using the natural topography of the landscape to limit the amount of runoff is desired. Further, maintaining the limited forest

resources would assist in mitigating for stormwater runoff, as would additional protection to wetlands by providing 100-foot buffers to wetlands.

- 3. There was no discussion about development in the floodplain or wetland protection. It is recommended that the Town develop and or coordinate with Sussex County and DNREC to address impact to these areas and personal property.**

#### **Parks and Recreation Facilities Recommendations:**

- 1. The Town of Milton is encouraged to work toward incorporating and/or continuing to offer some of these opportunities in the development of their Comprehensive Plan.**
- 2. As new private development projects are proposed, Milton should require (not encourage) developers to provide small parks, tot lots, recreation facilities, trails and/or parcels of open space within their development (page 52, Parks and Recreation Facilities, item number 2).**

- In May and June of 2008, the Delaware Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information and trends on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2009-2011 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities and needs within county and municipal comprehensive plans. For the purpose of refining data and research findings, Delaware was divided into five planning regions. The Town of Milton is located within SCORP Planning Region 5.

When looking at the findings from the 2008 telephone survey, it is apparent that Delawareans place a high importance on outdoor recreation. Statewide, 91% of Delaware residents indicated that outdoor recreation had some importance in their lives, while 64% said it was very important to them personally. These findings are very close to the results of the same question asked in the 2002 public opinion telephone survey, indicating a continued demand for outdoor recreation opportunities throughout the state.

Placing high importance on outdoor recreation resonates throughout the five SCORP regions. In Region 5 (eastern Sussex County), 91% of residents indicated that outdoor recreation had some importance in their lives, while 64% said it was very important to them personally.

### Outdoor Recreation Needs/Priorities

Based on the public opinion survey, the most needed outdoor recreation facilities in Milton include:

#### High facility needs:

- Walking and jogging paths
- Bicycle paths
- Public Swimming Pools
- Fishing Areas
- Open Space and Passive Recreation Areas
- Picnic Areas
- Playgrounds
- Hiking Trails

#### Moderate facilities needs:

- Access for Boating (canoe, kayak, and powerboat)
- Public Golf Courses
- Campgrounds
- Baseball/Softball Fields
- Horseshoe Pits
- Basketball Courts
- Tennis Courts

**Delaware Land and Water Conservation Trust Fund (DTF) recommendation - The municipal parks in Milton receiving funds through the DTF program are protected in perpetuity. To clarify this in the Comprehensive Plan, it is recommended that Milton develop a 'Parks/Open Space' or 'Protected' land use zoning designation for these parcels.**

- The Division of Parks and Recreation provides matching grant assistance through the Delaware Land and Water Conservation Trust Fund (DTF) to local governments for land acquisition and for park development. Lands that have received DTF assistance must remain as open space for conservation or recreation purposes in perpetuity. Four of Milton's parks have received funding through the DTF program. They include: Milton Memorial Park, Wagamons Pond and Access, Milton Governors Walk, and the Milton Rail Trail. The Town of Milton could further benefit from this program when incorporating new outdoor recreational facilities or adding amenities to existing parks. For more information on the Delaware Land and Water Conservation Trust Fund, please contact: Robert Ehemann @ 302.739.9235.

## **Recommendations for Ordinances and Plan Implementation**

### **1. Open Space: DNREC notes that it might be helpful to have a consistent definition of “open space” in your comprehensive plan and/or Town ordinances.**

- In a guidance document that DNREC is developing for the PLUS and other local technical review processes, we have defined open space as: those areas with public value in a predominantly natural state and undeveloped condition. Such areas may contain, but are not limited to, wildlife and native plant habitat, forest, farmland, meadows, wetlands, floodplains, shorelines, stream corridors, steep slopes, and other areas that have species or habitats of conservation concern.

Open Space may be preserved, enhanced and restored in order to maintain or improve the natural, ecological, hydrological, or geological values. An important design element to consider when incorporating Open Space in a development is to take maximum advantage of adjoining Open Space areas. This will advance the goal of an interconnected network of habitat corridors for wildlife and provide for future potential linkages.

#### **Open Space is not:**

- impervious surfaces (e.g., roads, parking lots, sidewalks, buildings)
- swimming pools or ponds that are lined or contain an impervious substrate
- stormwater management structures
- wastewater treatment systems

#### **Types of Recreational Open Space:**

*Passive*-Passive recreation areas include only low-impact activities having little or no disturbance on natural features.

*Active*-Active recreation areas (e.g., ball fields, playgrounds) should be placed only in Open Space areas that do not already contain natural habitat.

### **2. Total Maximum Daily Loads (TMDLs): Require completion of a Nutrient Budget protocol before granting preliminary approval for any proposed projects/developments.**

- All open space land uses should be designed and managed in a manner that mitigates or reduces nutrient pollutant loading and its’ damaging impacts to water quality. Since changes in land use often increase runoff of nutrient pollutants into nearby waterways (including wetlands) draining to a common watershed, these nutrient pollutant loading impacts should be assessed at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a

methodology known as the “Nutrient Load Assessment Protocol” to assess such impacts. The protocol is a tool used to assess changes in nutrient loading that result from the conversion of individual or combined land parcels to a different land use(s), and serves as a “benchmark indicator” of that project’s likely impacts to water quality. It is the intention of this protocol to inform those relevant governmental entities (i.e., State, county, and municipal) how a given project will affect water quality in their jurisdictions, while informing/encouraging developers of the need to incorporate better conservation practices (i.e., BMPs) in their project designs to help improve water quality.

**3. Source-water Protection Ordinance: When the population exceeds 2000 persons, the Town is required to develop and adopt a source water protection ordinance; DNREC is available to assist the Town in developing that ordinance. All future Comprehensive Plans should contain a separate section addressing source water protection. There should also be a map showing only source water protection areas.**

- The Plan recognizes the State’s 2001 Source Water Protection Law and states that the Town should work with DNREC to implement protections for these areas. In the event that the population of Milton exceeds 2000 persons (the 2009 Census estimate has them at 1,863), they will be required by law to adopt source water protection ordinances that are protective of excellent recharge potential and wellhead protection areas. In addition to the Town owned wells, the Town must protect all public wells within their municipal boundaries. In addition to the Town owned wells, the Town must protect all public wells within their municipal boundaries.

**4. Stormwater Management and Drainage: The Division of Watershed Stewardship is requesting that the Town incorporate a requirement for a stormwater and drainage review into the Town’s pre-approval requirements for new development requests.**

- Proposed development projects should hold a project application meeting with the delegated agency, the Sussex Conservation District, to discuss stormwater and drainage prior to the town reviewing and/or approving plans or issuing building permits. Please contact Elaine Webb with the DNREC Sediment and Stormwater Program if you have any questions regarding this new process. Please note that this process does not replace the State’s PLUS process. The Stormwater Assessment Report will also be provided through that process. As the Town of Milton updates any land use or subdivision codes, the Sediment and Stormwater Program requests the town make a note of the Sediment and Stormwater requirements on any construction - related project application checklists, etc.

**5. Natural Protection Techniques for New Development (Page 47) recommendations:**

- a. The Drainage and Stormwater Section recommends sub watershed planning within future annexation areas.**
  - By utilizing the natural drainage pattern, the Town may be able to combine habitat protection, recreation, and storm water management. The Town would need to partner with Sussex County as the watersheds extend out of the potential expansion area identified by the Town.
- b. The Town should consider being more restrictive than the State regulations and not allow the clearing of woodland for stormwater management areas.**
  - Existing woodland provides valuable wildlife habitat as well as soil erosion protection and water quality filtering. Preserving woodlands through creative site design is applauded. Develop a tree planting guideline, a tree mitigation planting guideline and woodland preservation language to protect the existing woodland from harvest prior to and after annexation.
- c. The Drainage Program recommends existing drainage ways be incorporated into open space plan.**
  - However, a maintenance plan needs to be in place should blockages from storm debris, beaver, or other sources occur. The Town should identify existing open channels within the Town boundary, along with potential annexation sites, as these channels may require maintenance in the future. Most of the channels have trees and wetlands adjacent to the channel and the riparian area provide a multitude of benefits for water quality and wildlife. There must be a balance between preserving the riparian area and having the capability to access the channel to perform maintenance. By identifying such areas now, future development would incorporate the areas into community open space thereby preserving the riparian area while allowing for channel maintenance access.
- d. The Drainage Program recommends including wetlands setbacks as part of the ordinances to protect environmental resources.**
  - Wetlands should be protected and setbacks, of un-subdivided open space, surround them. No portion of any building lot should be within the setback. During prolonged wet periods, the area within the wetland setback may become too wet for normal residential use. Designation as open space will aid in the prevention of decks, sheds, fences, kennels, and backyards being placed within the setback thereby reducing nuisance drainage complaints.

**6. Public Utilities (Page 52) recommendations:**

- a. Consider adding stormwater when developing an adequate public facilities ordinance. Ensure adequate stormwater outlets, easements, and infrastructure is available at time of subdivision.**
  - b. Evaluate the existing drainage patterns within the future annexation area to ensure adequate drainage for the cumulative stormwater impact upon full build out of the annexation area. The Town should be mindful of potential stormwater impacts from the Town onto county residents.**
- 7. Capital Improvements Program (Page 55): Consider adding upgrades to stormwater infrastructure when developing a Capital Improvements Program.**
- 8. Redevelopment of Brownfield Sites: DNREC's Site Investigation and Restoration Branch (SIRB) encourages the development of Brownfields and can provide assistance when investigating and remediating Brownfield sites.**
  - Although SIRB has no specific comments regarding the proposed comprehensive plan at this time, if any future development occurs on sites with previous manufacturing, industrial, or agricultural use, SIRB recommends that a Phase I Environmental Site Assessment be conducted prior to development, due to the potential for a release of hazardous substances.
- 9. Wetlands Delineations: Require all applicants to submit to the Town a copy of the development site plan showing the extent of State-regulated wetlands (as depicted by the State Wetland Regulatory Maps), and a United States Army Corps of Engineers (USACE) approved wetlands delineation as conditional approval for any new commercial and/or residential development. Additionally, the site plan should depict all streams and ditches which are jurisdictional pursuant to the Subaqueous Act (7 Del. C., Chapter 72) as determined by DNREC.**
- 10. Freshwater Wetlands Protections: Implement regulations to protect freshwater wetlands where regulatory gaps exist (i.e., isolated wetlands and headwater wetlands).**
- 11. 100-Foot Upland Buffer: Require a 100-foot upland buffer width from all delineated wetlands (approved by the USACE and DNREC) or water bodies (including ditches).**
  - Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882.), an adequately-sized buffer that effectively protects water quality in wetlands and streams, in most circumstances,

is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from all water bodies (including ditches) and wetlands.

**12. Impervious Surface Mitigation Plan recommendations:**

- a. Require the calculation for surface imperviousness (for both commercial and residential development) take in to account all constructed forms of surface imperviousness - including all paved surfaces (roads, parking lots, and sidewalks), rooftops, and open-water storm water management structures.**
- b. To encourage compact development and redevelopment in the Town's central business area, require an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness outside that area, or at least in excellent recharge areas outside that area.**
  - The impervious surface mitigation plan should demonstrate that the impervious cover in excess of 20% will not impact ground water recharge, surface water hydrology, and/or water quality of the site and/or adjacent properties. If impacts to groundwater recharge, surface water hydrology will occur, the plan should then demonstrate how these impacts will be mitigated. If the impacts cannot be mitigated, the site plan should then be modified to reduce the impacts from impervious cover.

**13. Poorly Drained (Hydric) Soils: Prohibit development in poorly or very poorly-drained (hydric) soil mapping units.**

- Building in such areas predictably leads to flooding and drainage concerns from homeowners, as well as significant expense for them and, often, taxpayers. Proof or evidence of hydric soil mapping units should be provided through the submission of the most recent NRCS soil survey mapping of the parcel, or through the submission of a field soil survey of the parcel by a licensed soil scientist.

**14. Green Technology Stormwater Management: Require the applicant to use “green-technology” storm water management in lieu of “open-water” storm water management ponds whenever practicable.**

**15. Stormwater Utility: Explore the feasibility of a stormwater utility to fund upgrades to existing stormwater infrastructure.**

- Upgrades to the stormwater system may reduce pollutant loads and help reach the established total maximum daily load for nitrogen, phosphorus, and bacteria.



Reach out to the Sussex Conservation District, Sussex County and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

**16. Drainage Easements: The Town should pursue drainage easements along waterways, ditches, and storm drains where currently there is none.**

- The Drainage Program is not suggesting the Town assume primary responsibility for the routine maintenance such as mowing on the conveyances. However the Town should have the ability to remove blockages either natural or manmade.

**Sediment and Stormwater Regulations Information:** Be advised the Sediment and Stormwater Program is currently undergoing revisions to the sediment and stormwater regulations. It is unclear at this time when the new regulations will be promulgated. The Sediment and Stormwater Program is set to begin requiring a project application meeting for all proposed land disturbing activities that require a detailed Sediment & Stormwater Plan within the coming year. These meetings are structured to assist developers in the design process and for early notification of approval requirements. In order to schedule a project application meeting, the applicant must forward a completed Stormwater Assessment Report (SAR) to the appropriate Delegated Agency.

**State Fire Marshal's Office – Contact: Duane Fox 856-5298**

The Delaware State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the Delaware State Fire Prevention Regulations. This Agency asks that a MOU be established and be maintained between the Delaware State Fire Marshal's Office and the Town of Milton. The State Fire Marshal's Office would be issuing approvals much like DelDOT and DNREC. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans in accordance with the Delaware State Fire Prevention Regulation.

**Department of Agriculture - Contact: Scott Blaier 739-4811**

- The Department encourages the town to continue working with the Department's Urban Forestry Section to meet its tree canopy goals.
- The Department encourages the town to adopt a forested buffer ordinance similar to Sussex County's. A buffer requirement would help mitigate the transition between disparate land uses such as residential and agriculture (i.e. poultry houses) thus avoiding any potential conflict that may arise. The buffer would be especially useful where the town's municipal boundary ends, and transitions to more rural agricultural areas.

**Delaware State Housing Authority – Contact Karen Horton 739-4263**

- DSHA notes that the information on Page 14 of the plan regarding the Statewide Housing Needs Assessment references the 1996 study. There is a more recent Statewide Housing Needs Assessment covering the 2008 to 2012 period. The section on substandard housing that includes the Milton Census County Division is attached and can be found on pages 229 and 231. The entire Statewide Housing Needs Assessment can be found at our website at: [www.destatehousing.com](http://www.destatehousing.com) under “Publications”.
- Additionally, DSHA has developed a website, **Affordable Housing Resource Center**, to learn about resources and tools to help create housing for households earning 100% of median income or below. This website can be found at: [www.destatehousing.com](http://www.destatehousing.com) "Affordable Housing Resource Center" under “Services”.

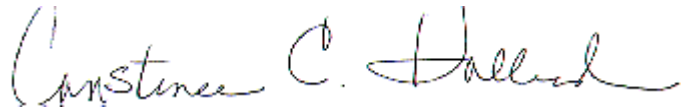
***Approval Procedures:***

1. Once all edits, changes and corrections have been made to the plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.
2. Our office will require a maximum of 20 working days to complete this review.
  - a. If our review determines that the revisions have adequately addressed all certification items, we will forward you a letter to this effect.
  - b. If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
3. Once you receive our letter stating that all certification items have been addressed, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.
4. Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for his consideration.
5. At his discretion, the Governor will issue a certification letter to your City.

6. Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is written in a cursive style with a large initial "C" and a distinct "H".

Constance C. Holland, AICP  
Director